

TAXABILITY OF EMPLOYEE BENEFITS

WHAT ARE EMPLOYEE BENEFITS?

An employee benefit is any benefit provided or paid by the employer for the benefit of the employee or the employee's family. Benefits are generally included in the employee's wage for tax purposes, except those benefits that qualify for an exclusion.

WHO ARE EMPLOYEES?

Employee means any individual who is an officer of a corporation, who is an employee under common law rules, or who is specifically an employee by law (see Information Sheet on Employment, DE 231).

The term *employee* has different meanings in relation to the types of benefits shown in the Fringe Benefits section of the attached table:

- For no-additional cost services, qualified employee discounts, and qualified athletic facility, the term *employee* means a current employee, a former employee who is separated from service by reason of retirement or disability, and any widow or widower of an employee who died while employed by the employer or who separated from service by reason of retirement or disability. The term *employee* also includes a partner performing services for the partnership. Any use by the spouse or dependent child of an employee is treated as use by the employee. In the case of air transportation benefits only, the term *employee* also includes the parent of an employee.
- For de minimus fringes, the term *employee* includes any recipient of the benefit. Therefore, a de minimus fringe is never taxable.
- For working condition fringes, the term *employee* includes a current employee, a partner who performs services for the partnership, a director of the employer, and any independent contractor who performs services for the employer.
- For qualified transportation reimbursements and qualified moving expense reimbursements, the term *employee* means a current employee.
- For qualified retirement planning services, the term *employee* includes a current employee and the spouse of an employee.

For some categories of employee benefits on the attached table, there may be special exclusion requirements involving the line of business, highly compensated employees, key employees, or S corporation shareholders. Also, in some cases benefits are excluded when they are provided by a service recipient to a leased employee who has performed substantially full-time services for at least a year under the service recipient's primary direction and control.

WHAT ARE WAGES?

Wages are payments made to an employee for his or her personal services, including commissions, bonuses, and the reasonable cash value of all amounts paid to employees in any medium other than cash (for example, taxable benefits).

FEDERAL TAXABILITY!

Reference to the taxability of benefits is based upon the California Employment Development Department's understanding of federal law and may not be the same as the federal interpretation. We recommend that you contact the Internal Revenue Service to confirm the correct interpretation of federal law.

WHAT ARE BENEFITS THAT QUALIFY FOR EXCLUSION FROM INCOME?

Wages do not include any benefit that is qualified for exclusion from income. To be qualified, the benefit must be either specifically excluded from wages (income) in the California Unemployment Insurance Code (CUIC) or excluded in the CUIC by reference to the Revenue and Taxation Code or the Internal Revenue Code.

Benefits may be excluded from wages in full, partially, or only to the extent that certain conditions are met.

The following summary of excluded benefits does not explain the conditions for the exclusion but rather states the taxability of the benefit when all of the required conditions are met.

Questions regarding the taxability of employee benefits that are not addressed in this general information sheet should be directed to:

Employment Development Department
FACD Central Operations, MIC 94
P.O. Box 826880
Sacramento, CA 94280-0001
(916) 464-2500

TYPE OF BENEFIT	CALIFORNIA			FEDERAL		
	UI/ETT [†]	SDI [†]	PIT [†]	FUTA [†]	FICA [†]	FIT [†]
ACHIEVEMENT AWARDS						
• Qualified plan awards not to exceed \$1,600.	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject
• Non-qualified awards of \$400 or less. Awards given in the form of tangible personal property (other than cash or securities). The maximum award amounts have been in effect since January 1, 1987.	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject
ADOPTION ASSISTANCE						
• A program under Section 137 of the Internal Revenue Code provides for the gross income exclusion of qualified adoption expenses.	Subject	Subject	Not Subject	Subject	Subject	Not Subject
CAFETERIA PLANS						
• Employer contributions for benefits excludable from gross income.	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject
• Employee salary reductions to a qualified Section 401(k) Internal Revenue Code, retirement program.	Subject	Subject	Not Subject	Subject	Subject	Not Subject
• Employee salary reduction for dependent care assistance, accident, health, and/or group-term life insurance.	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject
• Employer paid vacation.	Subject	Subject	Subject	Subject	Subject	Subject
• Cash payments in lieu of qualified benefits.	Subject	Subject	Subject	Subject	Subject	Subject
• Contributions into cafeteria plan for adoption assistance.	Subject	Subject	Not Subject	Not Subject	Not Subject	Not Subject
Adoption assistance program payments from a cafeteria plan are not subject for UI, ETT, SDI, and PIT withholding purposes.						
DEPENDENT CARE ASSISTANCE						
• Employer payments not to exceed \$5,000; \$2,500 if married filing separately. The maximum assistance has been in effect since January 1, 1987.	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject
DISASTER RELIEF PAYMENTS*						
• Employer payments that qualify as disaster relief payments as defined in Section 139 of the Internal Revenue Code.	Subject*	Subject*	Not Subject	Not Subject	Not Subject	Not Subject
• Amounts paid by an employer by reason of the death of an employee who is a specified terrorist victim.	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject
*The Victims of Terrorism Tax Relief Act of 2001 excludes qualified disaster payments from federal employment taxes. Payments for reasons other than an employee's death remain subject to UI/ETT and SDI in California.						
EDUCATIONAL ASSISTANCE						
• Educational assistance payments under Section 127 of the Internal Revenue Code excluded from gross income for undergraduate and graduate level courses not to exceed \$5,250 per calendar year.	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject
Effective January 1, 2002, the exclusion includes graduate-level courses taken by an individual leading to a law, business, medical, or other advanced degree. Change due to the federal Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16).						
FRINGE BENEFITS						
<u>No Additional Cost Services:</u>						
• Service* provided to an employee when the employer incurs no substantial additional cost in providing the service and the service is offered to customers in the ordinary course of the employer's business.	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject
*Excess capacity airline, bus, train and subway tickets; hotel rooms, etc.						
<u>Qualified Employee Discounts:</u>						
• Discounts* offered to employees for the same services or merchandise offered to customers in the ordinary course of the employer's business.	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject
*The maximum discounts are 20 percent on services or the gross profit percentage on merchandise.						
<u>Working Condition Fringes:</u>						
• Any property or service that would be allowable to the employee as a business expense or as a depreciation deduction.	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject
Business use of an employer-provided vehicle or use of a qualified demonstration automobile. Educational assistance and training provided to the employee that are not excludable from gross income under Section 127 of the Internal Revenue Code.						

[†]See page 4

TYPE OF BENEFIT	CALIFORNIA			FEDERAL		
	UI/ETT	SDI	PIT	FUTA	FICA	FIT

FRINGE BENEFITS (Continued)						
<u>De Minimis Fringes:</u>						
<ul style="list-style-type: none"> The value of property or service which is so small as to make accounting for it unreasonable or administratively impracticable. 	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject
Meals: Coffee, doughnuts, or soft drinks; meals provided at an employer-operated eating facility for employees. Other: Holiday gifts; tickets for entertainment or sporting events; life insurance on spouse or dependent face amount less than \$2,000.						
<u>Qualified Athletic Facility:</u>						
<ul style="list-style-type: none"> Any gym or other athletic facility provided by an employer to its employees. 	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject
The employer must own or lease the facilities; operate or contract out the operation; and substantially all use of the facility during the calendar year is by employees of the employer, their spouses, and their dependent children.						
<u>Qualified Transportation Reimbursements:</u>						
<ul style="list-style-type: none"> Employee commuting benefits. 	Not Subject	Not Subject	Not Subject*	Not Subject	Not Subject	Not Subject
Transit passes, tokens, cash reimbursements for mass transit use, and vanpooling, up to a fair market value of \$100 per month. Employer-provided parking, up to a fair market value of \$195 per month, including reimbursement for parking fees.						
*For PIT purposes only, there are no monetary limits.						
<u>Qualified Moving Expense Reimbursement:</u>						
<ul style="list-style-type: none"> Any amount which would be deductible as a moving expense under Section 217 of the Internal Revenue Code (IRC). 	Not Subject	Not Subject	Not Subject*	Not Subject	Not Subject	Not Subject
*For PIT purposes only, as of January 1, 1996, California conforms to Federal law under Section 217 of the Internal Revenue Code. For UI, ETT and SDI there is an exemption if at the time of payment, it is reasonable to believe that the employee is entitled to a deduction under Section 217 of the IRC (Section 937 CUIC).						
<u>Qualified Retirement Planning Services:</u>						
<ul style="list-style-type: none"> Fringe benefit excluded from gross income under Section 132 of the Internal Revenue Code for retirement planning advice or information provided to an employee and his or her spouse by an employer maintaining a qualified employer plan. 	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject
Effective January 1, 2002, this fringe benefit was added to Section 132 of the Internal Revenue Code due to the federal Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16).						
HEALTH, SICKNESS, ACCIDENT, DENTAL, AND OPTICAL PLANS						
<ul style="list-style-type: none"> Employer contributions to a qualified plan on behalf of an employee, as well as the employee's spouse and/or dependent(s). 	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject
<ul style="list-style-type: none"> Employer-provided accident or health coverage or medical reimbursements paid for an employee's domestic partner.* 	Subject	Subject	Not Subject	Subject	Subject	Subject
<ul style="list-style-type: none"> Employee salary reductions to a qualified plan.** 	Subject	Subject	Subject	Subject	Subject	Subject
*Effective January 1, 2002, the Personal Income Tax law was amended to extend the tax benefits of employer-provided coverage under accident and health plans to domestic partners (as defined in Family Code Section 297). Such payments are excluded from PIT wages as well as PIT withholding.						
**Contributions are exempt when included in a qualified Cafeteria Plan.						
GROUP LEGAL SERVICES						
	Subject	Subject	Subject	Subject	Subject	Subject
LIFE INSURANCE						
<ul style="list-style-type: none"> Group term insurance with a face amount of \$50,000 or less. 	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject
<ul style="list-style-type: none"> Group term insurance with a face amount in excess of \$50,000. 	Not Subject	Not Subject	Not Subject*	Not Subject	Subject	Not Subject
<ul style="list-style-type: none"> All other life insurance premiums. 	Not Subject	Not Subject	Subject	Subject	Subject	Subject
*Although PIT withholding is not required, it is reportable as PIT wages.						
MEALS AND LODGING						
<ul style="list-style-type: none"> Meals furnished for the employer's convenience and on the employer's premises. 	Subject	Subject	Not Subject	Not Subject	Not Subject	Not Subject
<ul style="list-style-type: none"> Lodging furnished for the employer's convenience, on the employer's premises, and as a condition of employment. 	Subject	Subject	Not Subject	Not Subject	Not Subject	Not Subject

TYPE OF BENEFIT	CALIFORNIA			FEDERAL		
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MEDICAL SAVINGS ACCOUNT

- Employee contributions
- Employer contributions

Subject	Subject	Subject	Subject	Subject	Subject
Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject

MOVING EXPENSES

- Employer paid or reimbursed expenses for moving house-hold goods, personal effects and traveling expense.

Not Subject	Not Subject	Not Subject*	Not Subject	Not Subject	Not Subject
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***For PIT purposes only, as of January 1, 1996, California conforms to federal law under Section 217 of the Internal Revenue Code. For UI, ETT, and SDI, there is an exemption if, at the time of payment, it is reasonable to believe that the employee is entitled to a deduction under Section 217 of the IRC (Section 937 CUIC).**

RETIREMENT PLANS

- Employer contributions to a qualified plan.
- Employee salary reduction contributions to a qualified plan.
- Contributions to a nonqualified deferred compensation plan.

Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject
Subject	Subject	Not Subject	Subject	Subject	Not Subject
Subject	Subject	Subject	Subject	Subject	Subject

SCHOLARSHIPS AND FELLOWSHIPS

- Qualified tuition and related expenses as provided under Section 117 of the Internal Revenue Code.

Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject
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TUITION PROGRAMS*

- Employer contributions to a qualified plan.
- Employee/participant contributions to a qualified plan.

Subject	Subject	Subject	Subject:	Subject:	Subject:
Not Subject	Not Subject	Not Subject	Not Subject	Not Subject	Not Subject

***For example, the Golden State Scholarshare Trust. Prior to 2002, only a state could establish and maintain a Qualified Tuition Program. Beginning in 2002, educational institutions also may establish and maintain a qualified tuition program. Employer contributions are subject to taxes, and employee contributions are made from earnings that have already been taxed.**

VACATION AND SICK PAY

- Employer paid vacation
- Vacation and sick pay earned but not paid until after termination of employment.
- Sick leave payments for the first full six calendar months.
- Sick payments made a full six calendar months following the last month in which the employee performed services.
- Third-party payments of sick pay.

Subject	Subject	Subject	Subject	Subject	Subject
Not Subject	Not Subject	Subject	Subject	Subject	Subject
Subject	Subject	Subject	Subject	Subject	Subject
Not Subject	Not Subject	Subject	Not Subject	Not Subject	Subject
Subject*	Not Subject	Not Subject	Subject	Subject	Not Subject

***Exempt if payments are made more than six months after the last calendar month in which the employee worked.**

[†]UI = Unemployment Insurance

[†]ETT = Employment Training Tax

[†]SDI = State Disability Insurance and includes Paid Family Leave (PFL) beginning January 1, 2004

[†]PIT = Personal Income Tax

[†]FUTA = Federal Unemployment Tax Act

[†]FICA = Social Security/Medicare Federal Insurance Contribution Act

[†]FIT = Federal Income Tax

Equal Opportunity Employer/Program. Auxiliary services and assistance available to persons with disabilities.